



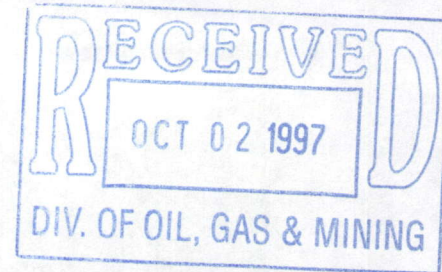
IN REPLY REFER TO:

3809  
U-72296  
(UT-023)

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Salt Lake District Office  
2370 South 2300 West  
Salt Lake City, Utah 84119



CERTIFIED MAIL Z 286 254 466  
RETURN RECEIPT REQUESTED

### DECISION

Mr. William Bown	:	
Utah Building Stone Supply	:	43 CFR 3809
824 West 400 North	:	Surface Management
West Bountiful, UT 84087	:	Notice of Noncompliance

#### Notice of Failure to File a Plan of Operations in the Grouse Creek Mountain Area

On August 28, 1991, we received your Notice to construct an access road  $\frac{1}{4}$  mile in length to provide access to your Rusty Rock placer mining claim, located in T. 13 N., R. 17 W., Section 35 (UMC 154822). The acreage to be disturbed by your proposed access road was reported by you to be  $\frac{1}{3}$  acre.

On January 30, 1995, we received your Notice to construct 3 additional access roads and conduct quarrying activities on your Golden Eagle 2-7, Rusty Rock, and Windy Ridge placer mining claims located in T. 12 N., R. 17 W., Sections 1, 2, 3, 10, and 11, and in T. 13 N., R. 17 W., Sections 34 and 35. From information you provided, the acreage to be disturbed by your proposed access roads was calculated to 1.7 acres, with a total proposed surface disturbance reported by you to be "less than 5 acres." On February 17, 1995, you were notified by this office that the existing surface disturbance, as calculated from your submitted map, was 11.6 acres. You were informed in that letter that mining-related activities in excess of 5 acres required the submittal of a Plan of Operations and a bond for reclamation, as required under Surface Management regulations at 43 CFR 3809.1-4. You were requested to file a Plan of Operations, including information sufficient to describe your plans for reclamation of the area within 30 days of receipt of that letter. You were also informed that the Utah Division of Oil, Gas and Mining (UDOGM) would be notified of your proposed mining and road construction activities, and that the Bureau of Land Management (BLM) would defer to UDOGM to hold any reclamation bonds required for your proposed activities. The requested Plan of Operations was never received by this office.

During a joint inspection of the Grouse Creek area on July 6, 1995, by UDOGM and the BLM, it was determined that your current operation covered an area of 11.53 acres. You were informed that you would have to file a Notice of Intent to Commence a Large Mining Operation (LMO) by September 5, 1995. On November 6, 1995, you were placed in Non-Compliance by UDOGM because you had failed to file the LMO by September 5, 1995. On January 6, 1996, we received a copy of a certified letter sent to you by UDOGM that you had submitted an LMO, but that as of December 20, 1995, you had not submitted the required interim reclamation surety of \$25,000 for your proposed mining operation. On January 30, 1996, UDOGM sent you a letter requesting information sufficient to complete your LMO application. In summary, you were requested to provide UDOGM with the following information:

1. A map of your surface facilities;
2. Drawings or cross-sections of slopes, roads, pads, etc.;
3. An estimate of the acreage to be disturbed and reclaimed annually;
4. Information regarding the existing soil types, location of salvaged topsoil stockpiles, and volume of topsoil saved;
5. Your plan for protecting the soils and redepositing them at the conclusion of operations;
6. Information regarding a description of the existing vegetation, including the species and amount of each;
7. Information regarding erosion and sediment control;
8. Information regarding the use, storage, and removal of deleterious material from the site;
9. Plans for concurrent reclamation of the site;
10. A discussion of the impacts to local surface and groundwater systems;
11. Final reclamation contours, slope stability, erosion control, air quality, and safety;
12. Final reclamation plan, including your plans to reclaim the access roads, slopes, drainages, pits, etc.;
13. Your final revegetation plan for the area;
14. Your plans to protect the public from the effects of your mining operation;
15. Your plans for the reclamation of natural channels;
16. Your plans for erosion control after reclamation;
17. Your plans for regrading of slopes at the conclusion of operations;
18. Plans for the stabilization of high walls;
19. Plans to reclaim all roads and pads; and
20. Plans to redistribute topsoil at the conclusion of operations.

In addition, you were required to prepare a detailed cost estimate for performing each item of the reclamation plan, and post the previously requested interim reclamation surety of \$25,000. On February 22, 1996, we received a copy of a letter sent to you by UDOGM regarding the status of your Grouse Creek Operation. The letter reiterated your concerns and objections regarding the inclusion of existing access routes in the LMO, and a dispute over the total acreage proposed for mining-related activities. These concerns were brought forth in a joint meeting between yourself, UDOGM, and the BLM. As a result of that meeting, UDOGM

postponed their requirement that an interim reclamation surety be posted, and agreed to set up a joint on-site meeting with you and the BLM to discuss your proposed mining activities and proposals for reclamation of the area.

On June 5, 1996, a joint meeting was held between you, UDOGM, and the BLM to discuss proposals to reclaim portions of existing access roads in the Grouse Creek Mountain area. As a result of this meeting, on June 18, 1996 UDOGM sent you a certified letter informing you that if you would reclaim 4.31 acres of excess access roads, your operation would be reduced to 4.42 acres in size, and could be considered a small mining operation. The UDOGM established a deadline of July 31, 1996, to either complete 4.31 acres of reclamation, or submit a reduced reclamation surety bond of \$6,500. An inspection of the site on August 6, 1996 by UDOGM and again on November 14, 1996 by the BLM revealed that none of the required reclamation had been completed within the required time frame.

On January 21, 1997, UDOGM informed you through a Notice of Agency Action that "you are hereby directed to suspend all mining activities at this site until you acquire an approved Large Mining Operation Notice of Intention from this office." You were also told that "any continued mining activity at this site (without first acquiring an approved permit from this Division) will constitute a willful violation of the Utah Mined Land Reclamation Act and its interpretive rules." On February 3, 1997, UDOGM received a written appeal from you of their Notice of Agency Action. An "Informal Hearing" with UDOGM was scheduled and held on February 27, 1997. As a direct result of this meeting, on March 25, 1997 UDOGM ordered that "the Order of Suspension of operations contained in the Notice of Agency Action dated January 21, 1997 shall remain in effect until UBSS (Utah Building Stone Supply) acquires an approved Large Mining Operation Notice of Intention from the Division. Continued removal of mineral materials at the Grouse Creek operations will constitute a willful violation of the Utah Mined Land Reclamation Act." You were also given the opportunity to file an appeal of this decision to the Board of Oil, Gas and Mining. You subsequently appealed UDOGM's decision and a hearing was set for May 28, 1997. On May 5, 1997, before a hearing on the matter could be held, you dropped your appeal. On May 22, 1997, you again met with UDOGM to discuss reclamation of the Grouse Creek Quarry. During that meeting, UDOGM established a July 31, 1997, deadline to complete the required reclamation. During a site inspection on August 19, 1997, it was revealed that you had not completed any of the required reclamation, as of that date. In addition, you were observed by UDOGM removing mineral materials from the Grouse Creek area, in direct violation of UDOGM's prior orders to suspend operations at the site until either the operation was permitted under an LMO, or until the site was reclaimed to less than 5 acres, and was authorized under a Small Mining Operation (SMO). At that time, you were knowingly and willfully violating the Utah Mined Land Reclamation Act. An inspection of the Grouse Creek quarry site was conducted by the BLM on September 9, 1997. At that time, no reclamation had occurred.

A Board of Oil, Gas and Mining hearing was scheduled, and was held on September 24, 1997. The intent of this hearing was to require UBSS to reclaim the Grouse Creek Quarry area, as outlined in previous Orders to comply with Utah Mined Land Reclamation Act regulations

through UDOGM. You failed to attend the hearing. According to the Board, UBSS is required to comply with all of UDOGM's reclamation requirements, as outlined by testimony, by October 15, 1997. In lieu of completing the required reclamation, you were required to submit a reclamation bond to UDOGM in the amount of \$12,500.

Failure of an operator to comply with all pertinent Federal and State laws, and failure of an operator to submit an appropriate Notice or Plan of Operations to the BLM prior to initiating operations subjects the operator to being served with a Notice of Noncompliance. Your activities in the Grouse Creek area have resulted in unnecessary and undue degradation of Public Lands for which you are hereby being issued a Notice of Noncompliance.

All operators who have established a Record of Noncompliance are required to submit a Plan of Operations and must post a bond for 100% of the cost for reclamation, including administrative costs, for any and all future mining operations. On March 31, 1997, a final rule published in the Federal Register became effective amending the BLM's surface management regulations at 43 CFR 3809. This rule requires submission of financial guarantees for reclamation of all hardrock mining operations greater than casual use. The final rule also requires the following:

- A. The bond amount must be no less than 100 percent of the estimated costs to reclaim the land disturbed. The bond is required to be for an amount the greater of 100 percent of the cost to reclaim the disturbed area, or \$1,000.00 per acre (for Notice-level activities), or \$2,000.00 per acre for Plans of Operation;
- B. All bonds submitted directly to, or certified to the BLM, must be accompanied by a Professional Engineer's (PE) certification of the reclamation costs. Where an operator has satisfied the bonding requirements by evidence of a sufficient bond held or approved by the State of Utah, no PE's certification is required.

In order to bring yourself into compliance with Federal regulations, you must do the following:

- 1. Immediately cease all quarrying or stockpiling operations on the subject mining claims until a Plan of Operations has been approved by this office.
- 2. Comply with all Orders issued by UDOGM or the Board of Oil, Gas and Mining.
- 3. Within 30 days of receipt of this letter, you must submit a Plan of Operations that describes in detail your ongoing and proposed activities on the subject land. This would include a map showing all existing and proposed quarry areas, stockpile areas, access roads, waste rock areas, topsoil stockpile areas, and equipment storage yards. Your Plan must also include the information that was requested by UDOGM, and summarized earlier in this letter. We have enclosed a Plan of Operations format for your use.

4. Along with your Plan of Operations, you must submit a bond accompanied by a Professional Engineer's (PE) certification of the reclamation costs. Where an operator has satisfied the bonding requirements by evidence of a sufficient bond held or approved by the State of Utah, no PE's certification is required.
5. Provide information sufficient to describe the measures that will be taken to prevent unnecessary and undue degradation of Public Lands, and measures that will be taken to reclaim disturbed areas resulting from your unauthorized activities on the subject mining claims.

If you continue to conduct operations without an approved Plan of Operations, and without taking the actions specified in this letter within the time specified, you may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

An appeal from this decision may be taken to the State Director, Utah State Office, BLM, in accordance with the provisions in Title 43 of the Code of Federal Regulations (CFR) Subpart 3809.4. If an appeal is taken, the notice of appeal must be filed in this office at 2370 South, 2300 West, Salt Lake City, Utah, 84119 within thirty (30) days from receipt of this decision.

Do not send the notice of appeal to the State Director. The appeal and the case history will be sent to the State Director from this office. The appeal to the State Director must contain: 1) the name and mailing address of the appellant; 2) when applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claim(s) recorded pursuant to Section 3833 of this title which are subject to appeal; and 3) a statement of reasons for appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

During the appeal to the State Director, all decisions from which the appeal is taken shall be effective during the pendency of the appeal.

If no appeal is taken, this decision constitutes final administrative action of this Department, as it affects the subject mining claims. No appeal, protest, or petition for reconsideration will be entertained from this decision after the appeal period has expired.

If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

Sincerely,

**/s/ Margaret Wyatt**

Area Manager

Enclosure

cc: D. Wayne Hedberg, UDOGM  
Utah State Office (UT-921)